

City OF HOUSTON



HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

Section 3 Program Policy Guide 1968 Housing and Urban Development Act

“ensure that employment and economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, state and local laws and regulations, be directed to low-and very low income persons”

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Housing and Community Development Department
Policies and Procedures for Section 3 Compliance

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What Is Section 3?

Section 3 of the Housing and Urban Development Act of 1968, (12U.S.C.1701u)(Section 3) and implementing regulations at 24 C.F.R.135 states the purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain Housing and Urban Development (HUD) financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very low-income persons. The City of Houston (City) fully embraces this definition of Section 3 and has set forth policies and procedures to "ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible be directed to low and very low income persons, and to business concerns which provide economic opportunities to low and very low income persons.

Why is it important to the City of Houston?

As a participating jurisdiction (PJ), the City of Houston through the Housing and Community Development Department (HCDD), is required by HUD to develop and implement a Section 3 program, which provides hiring and economic opportunities for low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns. Of those concerns, the program provides economic opportunities to low-and very low income persons to achieve these objectives. The City embraces the spirit and intent of its obligations under Section 3, and has set forth the following policies that are applicable to developers, contractors, subcontractors, and others engaged in projects funded through the City with funds (*meeting the respective established thresholds of \$200,000 and \$100,000*) sourced from HUD. These policies are discussed throughout the remainder of this guidebook.

Policies Regarding Section 3

The purpose of Section 3 regulations is that new employment opportunities be extended to low and very low income residents of the area where the project is being implemented. In essence, Section 3 eligible residents are to be extended preference in new hiring situations, which result from the infusion of HUD sourced funds. These policies also require that designated Section 3 businesses concerns are to be extended preference in contracting, sub-contracting, purchasing and servicing activities. The program requires approval of the Section 3 Utilization Plan after the intent to reward is executed.

HCDD has the responsibility for implementation and monitoring of the City's Section 3 policies. The contact information follows:

Section 3 Program
601 Sawyer Street, Suite 400
Houston, Texas 77007
Phone: (713) 868-8300
Fax: (713) 868-8377

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Compliance - Section 3 Section

1. Section 3 Administration

Within the Real Estate Compliance Division, staff are designated to serve the Section 3 program. These staff will lead the City's review of Section 3 Utilization Plans. Staff will provide review findings within 7 to 10 work days after submission. All approved Section 3 Utilization Plans will become an essential component of any commitment of funds by the City and any contractual relationship. Within the parameters of the program, technical assistance is provided to developers and others during the process of development of Section 3 Utilization Plans. Staff will provide contractors with current lists of Section 3 certified businesses and certified Section 3 residents seeking employment opportunities. The primary objective of Section 3 is to connect low- and very low-income persons with economic opportunities associated with the City's HUD-sourced projects.

2. Section 3 Certification

Staff is responsible for both the certification of low- and very low-income persons as Section 3 residents, as well as, the certification of Section 3 businesses. The City may coordinate the certification duties of individuals and businesses with an outside agency, such as Workforce Solutions, who may serve as a program liaison for the Section 3 staff. The purpose of such coordination is to give Section 3 certified residents and business concerns greater access the full range of training programs offered.

3. Section 3 Contract Compliance

All approved Section 3 Utilization Plans are part of the projects contractual documents and they will be monitored by Department staff(s).

Failure to comply with Section 3 Utilization Plans can be construed as a breach of contractual terms.

Section 3 Hiring Policy for Individuals

The Section 3 Hiring Policy is an essential component of any Section 3 Utilization Plan submitted to the City for approval by contractors. HCDD recognizes the importance of making sure that low- and very low-income residents benefit from any and all City projects sourced from HUD and built in their communities. Developers and contractors are likewise expected by the City to demonstrate in their Section 3 utilization plans and through their subsequent implementation actions that Section 3 eligible residents are indeed beneficiaries of the contractor's hiring policies and practices. The following hiring goals apply to all projects for which Section 3 guidelines are applicable:

Highest Priority: Low- and very low-income residents residing in "affected neighborhoods" adjacent to or near a project is located. Neighborhood Areas are defined as Consolidated Areas as delineated in the City's approved Consolidated Housing and Community Development Plan.

Second Priority: Other low- and very low-income residents throughout the City.

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Under HCDD Section 3 Hiring Policy, sub-grantees, private entities, developers, and contractors will be contractually obligated to:

1. Conduct aggressive employment outreach to a number of community-based agencies (Workforce Solutions, Coalition for the Homeless, etc.) for all new hires.
2. Accept and give preferential employment consideration to referred Section 3 eligible residents.
3. Provide appropriate employment outreach signage at the project site and throughout the project area to inform low and very low income residents of employment opportunities.
4. Distribute employment outreach flyers throughout the project community and with community based organizations for all new employment opportunities.

Certification of Section 3 Eligible Residents

The City will certify low and very low income persons as “Section 3 eligible” for job and training opportunities. The City, using identified sources, will maintain referrals for Section 3 eligible residents to be referred to contractors on an as needed basis.

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Section 3 Business Opportunity Policy

The Section 3 Business Opportunity Policy is another essential component of any Section 3 Utilization Plan. HCDD is committed to making sure that designated Section 3 Eligible business concerns derive economic benefit from any and all City projects built and sourced from HUD in their communities. Developers and contractors are likewise expected to demonstrate in their Section 3 utilization plans, and through their subsequent actions, that Section 3 certified business concerns are indeed economic beneficiaries of the contractor's business and procurement practices. Under the City's Section 3 policy, *Section 3 Eligible Business Concerns* will be given priority in contracting for appropriate work.

Certification of Section 3 Business Concerns

Business concerns can become Section 3 certified if they meet one (1) of the following HUD guidelines:

- 51% owned by a certified Section 3 eligible resident;
- 30% or more of the business' permanent full time employees are certified Section 3 residents; or
- 25% or more of all monies spent on the project is awarded to certified Section 3 Businesses.

HCDD will certify business concerns as Section 3 eligible. HCDD will provide a current listing of certified Section 3 Business Concerns and will make available listings of such businesses to any contractor, or subcontractor interested in work pertaining to City funded (HUD sourced) projects. HCDD will maintain these Section 3 certified business concerns listings in order to facilitate the assessment and review of Section 3 plans, which are submitted to the City for review.

Contractors Contractual Obligations:

Under HCDD Section 3 Business Opportunity Policy, sub-grantees and private entities will be contractually obligated to:

1. Conduct aggressive outreach to Section 3 certified business concerns for sub-contracting and business opportunities.
2. Accept and give preferential business engagement consideration to Section 3 business concerns.
3. Provide appropriate employment outreach signage at the project site and throughout the project area to inform Section 3 certified business concerns of business opportunities.
4. Document aggressive outreach efforts related to Section 3 eligible business concerns.
5. Maintain proper records of utilization of Section 3 certified business concerns.

It is the Department's policy that sub-recipients adhere to approved procurement and bidding procedures, and therefore no "sole sourcing" of contracts shall be allowed directly to any Section 3 certified Business Concerns. All Section 3 certified Business Concerns shall be certified with the City and have experience in the service to be provided to the City or its sub-recipients.

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What Projects Are Section 3 Projects?

Section 3 policies are applicable to all HUD sourced construction projects related to:

- Housing Rehabilitation
- Housing Construction
- Public Infrastructure
- Public Facilities & Parks Improvements
- Economic Development Projects (*Job creating or job sustaining*)

It is important to emphasize that the infusion of any HUD-sourced dollars through the City into a project at any point in a project and at any level exceeding the federal thresholds triggers the full applicability of HCDD Section 3 Policies to the entire project. The City includes language in all applications stating the appropriate thresholds. It is HCDD policy that full and complete Section 3 obligations apply to all projects and situations as indicated below:

1. All construction projects for which the amount of City (HUD-sourced) assistance to the project or program exceeds \$200,000.
2. All Contractor/Subcontractor situations where the individual contract or subcontract exceeds \$100,000 from the City with HUD-sourced funds.

Houston's Section 3 Goals

The HCDD sets overall Section 3 employment and contracting goals annually through the Consolidated Annual Action Plan, which is submitted to HUD for approval. The current Section 3 goals are as follows:

1. Employment: Thirty percent (30%) of the aggregate number of new hires during a one year period of the project. (Example: A construction contractor hires 10 new workers. Three of the new workers should be Section 3 eligible persons.)
2. Contracting: (a) At least 10 percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, construction, and other public construction with federal funds; and (b) At least three percent (3%) of the total dollar amount of all other covered Section 3 contracts to eligible Section 3 business concerns.

HCDD Commitment to Outreach

In addition to HCDD's firm commitment to the above stipulated goals, HCDD also recognizes the need for broad outreach, education, and training relative to Section 3. HCDD will engage in an on-going outreach and educational efforts throughout the year including:

- Section 3 presentations at Job Fairs and other networking opportunities
- Section 3 presentations and participation in local community forums
- Development and Distribution of Section 3 informational and educational materials
- Media presentations
- Targeted Community group mailings

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- Maintaining relationships with other Section 3 program providers in the area [Houston Housing Authority (HHA) and Harris County Housing Authority (HCHA)]
- Development and maintenance of an educational presence on the City's website at <http://www.houstontx.gov/housing/index.html>

Assuring Compliance with Section 3 Policies:

Assuring compliance with Section 3 Policies involves affirmative measures on the part of many.

Developers, Contractors & Sub-Contractors shall:

- Submit a Section 3 Utilization Plan reflective of the HCDD stated Section 3 goals.
- Implement an approved Section 3 Utilization Plan meeting the stated Section 3 hiring and contracting goals.
- Document all aspects of implementation of their approved Section 3 Utilization Plan. Records shall be maintained and available for monitoring /compliance reviews.
- Submit required reports in a timely manner. (Proper documentation supporting the reports should be maintained for compliance/ monitoring reviews.)

HCDD, however, recognizes that the ultimate responsibility rests with the HCDD. HCDD will:

- Assure that Section 3 implementation procedures are in compliance.
- Issue Section 3 Compliance Procedures for Developers, and Contractors.
- Incorporate the Section 3 Program guidelines in all solicitations.
- Insure that Section 3 requirements exist in all solicitations and bidding documents.
- Require the submission of Section 3 Utilization Plans for review and approval by HCDD prior to the commitment of any HUD-sourced funding to projects.
- Conduct meetings with Contractors / Sub-Contractors to discuss the review of Section 3 Utilization Plans.
- Require approved Section 3 Utilization Plans to become a part of the set of contractual documents which officially commit funding (HUD sourced) to projects.
- Review the Contractor's submission of a Section 3 Utilization Plan after the letter of intent to award has been executed.
- Regularly conduct compliance monitoring of all contracts, which embody approved Section 3 Utilization plans.
- Hold periodic workshops describing Section 3 and the City's commitment to the Section 3 Program.
- Prepare and submit annual reports to HUD on the Section 3 Program results.

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Documenting Section 3 Efforts

Monthly Reports

The City requires Monthly reports from all Contractors, and Sub-Contractors on Section 3 projects (See Appendix B for report form). Reports shall be due on the tenth (10) day of each month. These reports shall be submitted to HCDD, Section 3 Coordinator, 601 Sawyer Street, Suite 400, Houston, TX 77007.

Annual Report

The City will submit the annual Section 3 report to HUD as part of the Consolidated Annual Performance Report (CAPER). All reports shall be submitted on HUD Form 60002. An additional copy of the annual HUD Form 60002 for CDBG and for HOME projects will be submitted to HUD's national Fair Housing and Equal Opportunity (FHEO) office at the time of the CAPER submission.

The City will receive and maintain records to document compliance with the Section 3 Program objectives. At a minimum, records will include specific information and documentation to demonstrate whether the numerical goals were met and that the recipients and contractors/subcontractors carried out their responsibilities.

Section 3 Outreach Potential Umbrella Agencies

The City will send announcements for Section 3 applicable projects two calendar weeks prior to any closing date to the following listing community-based business organizations. Section 3 staff will continue to update this listing.

African American Chamber of Commerce of Greater Houston
(Formerly the Acres Home Citizens Chamber of Commerce)

6112 Wheatley

Houston, TX 77091

Phone: (713) 692-7003

Fax: (713) 691-7131

Web: <http://www.acreshomechamber.com>

(Note: web site obtained from another source and is no longer current)

Alliance of Minority Contractors of Houston

PO Box 920859

Houston, TX 77292-0859

Phone: (713) 802-4154

E-Mail: info@amc-houston.org

Web: www.amc-houston.org

Asian Chamber of Commerce

6833 West Sam Houston Pkwy, Suite 206

Houston, TX 77072

Phone: (713) 782-7222

Fax: (713) 782-8676

E-Mail: rogecalvert@asianchamber-hou.org

Web: <http://www.asianchamber-hou.org/>

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Association of Business Contractors, Houston
3910 Kirby Drive, Suite 131
Houston, TX 77098
Phone: (713) 523-6222
Fax: (713) 874-0747
E-Mail: a.burk@abchouston.org (Membership Coordinator)
Web: <http://www.abchouston.org/>

Hispanic Chamber of Commerce
1801 Main Street, Suite 1075
Houston, TX 77002
Phone: (713) 644-7070
Fax: (713) 644-7377
Web: <http://www.houstonhispanicchamber.com/>
For questions about membership, email: jmancilla@houstonhispanicchamber.com
For questions about events, email: mmadrid@houstonhispanicchamber.com

Houston Citizens Chamber of Commerce
2808 Wheeler Avenue
Houston, TX 77004
Phone: (713) 522-9745
Fax: (713) 522-5965
Web: <http://www.hccoc.org>
For questions about membership, email info@hccoc.org
For questions about events, email: info@hccoc.org

National Association of Minority Contractors (NAMC Greater Houston)
3825 Dacoma Street
Houston, TX 77092
Phone: (713) 843-3791
Fax: (713) 843-3701
E-Mail: egoodie@namc-houston.org
Web: <http://namc-houston.org/>

Tri-County Black Chamber of Commerce
P.O. Box 88376
Houston, TX 77288
Phone: (832) 875-3977
Fax: (713) 839-7329
E-Mail: Info@tcbcc.net
Web: <http://tricountyblackchamber.org/>

National Association of Women in Construction, Houston Branch (#0003)
327 South Adams Street
Fort Worth, TX 76104-1002
Phone: (800) 552-3506 or (817) 877-5551
E-Mail: membership@nawic.org
Web: <http://www.nawic-houston.com/>

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SER – Jobs for Progress, Inc.
201 Broadway Street
Houston, TX 77012
Phone: (713) 773-6000 or 1 (866) 285-4003
E-Mail: info@serhouston.org.
Web: <http://www.serhouston.org/>

Women's Business Enterprise Alliance
4100 Westheimer Road, Suite 260
Houston, TX 77027-4438
Phone: (713) 681-9232
Fax: (713) 681-9242
Email: amoore@wbea-texas.org
Web: <http://www.wbea-texas.org>

Women's Chamber of Commerce of Texas
P.O. Box 26051
Austin, TX 78755-0051
Phone: (713) 869-1144, Ext. 12
E-Mail: houston@womenschambertexas.com
Web: <http://www.womenschambertexas.com>

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Enforcement - Complaints and Compliance Reviews

- A. HUD's Complaint Process (Pursuant to Section 135.76): Any Section 3 resident or business may file a complaint alleging noncompliance with Section 3 by a recipient, contractor, or subcontractor. Complaints will be investigated; if appropriate, voluntary resolutions will be sought. There are appeal rights to the HUD Secretary. Section 3 residents and businesses may also seek judicial relief. Complaints must be submitted to HUD within 180 days of the action or omission upon which the complaint is based. Complaints are to be filed in writing to the HCDD, Section 3 Coordinator, and the local FHEO office: Fair Housing and Equal Opportunity, 1301 Fannin Street Suite 2200, Houston, TX 77002.

Or

HUD Fort Worth Regional Office of Fair Housing and Equal Opportunity
801 Cherry Street
P.O. Box 2905
Fort Worth, TX 76113-2905
Phone: (817) 978-5900
Fax: (817) 978-5876
Email: ComplaintsOffice06@hud.gov

Or

HUD Assistant Secretary for Fair Housing and Equal Opportunity
Seventh Street, SW, Room 5100
Washington, DC 20410-2000

A written complaint **must** contain:

- Name and address of the person filing the complaint;
- Name and address of the subject of complaint (HUD Recipient or Contractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective actions sought.

- B. City's Complaint Process. Any Section 3 resident or business concerns may file a complaint alleging non-compliance with Section 3 by a recipient, contractor, or subcontractor. Complaints will be investigated by HCDD's Real Estate Compliance Section. A written complaint **must** contain:

- Name and address of the person filing the complaint;
- Name and address of the subject of complaint (HUD Recipient or Contractor)
- Description of acts or omissions in alleged violation of Section 3

Written complaints should be filed with:

Section 3 Coordinator
Department of Housing and Community Development
601 Sawyer Street, Suite 400
Houston, TX 77007

Upon receipt of a written complaint the HCDD Management will designate a person or persons to investigate the specific allegations of the complaint and render a finding. If it is determined that the Contractor/Sub-Contractor has functioned in such a manner as to

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breach the contractual obligations of the approved Section 3 Plan, the Section 3 Coordinator will notify the appropriate administrator of such findings and of the corrective measures that will be required.

Both Section 3 residents and businesses may also file a complaint with HUD utilizing the process described or may seek judicial relief.

- C. Compliance – Staff will conduct regular compliance reviews, which consist of comprehensive analysis and evaluation of the recipient's or contractor's compliance with Section 3. Where noncompliance is found, the HCDD will notify the recipient or contractor of the deficiency and recommendations for corrective actions. On complaints sent to HUD, the Section 3 staff will conduct an evaluation and make recommendations for corrective actions.
- D. Findings – A finding of noncompliance by the City or HUD may result in sanctions based on the program under which the Section 3 covered assistance was funded.

Section 3 Procedures for All Bidders

As part of the application or bidding process, Section 3 Utilization Plans are to be developed and submitted to the HCDD to demonstrate commitment to Section 3 utilization. This preliminary plan will be used to help evaluate the quality of submitted bids during the selection process. The successful bidder will then have an opportunity to finalize the Section 3 Plan. The plan that is approved by HCDD will become a part of the set of contractual contract (agreements) with the City.

Staff will review Section 3 Utilization Plans for these items:

Key Elements of a Section 3 Utilization Plan:

Section 3 Utilization Plans, must be, at a minimum, reflective of the City's Section 3 Goals, indicated below. The City's current Section 3 Goals are:

- a. **Employment:** Thirty percent (30%) of the aggregate number of new hires during a one year period of the project. (Example: A construction contractor hires 10 new workers. Three of the new workers should be Section 3 eligible persons.)
- b. **Contracting:** At least 10 percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, construction, and other public construction with federal funds; and at least three percent (3%) of the total dollar amount of all other covered Section 3 contracts shall be awarded to eligible Section 3 business concerns.

Section 3 utilization goals for the Consolidated Plan must be clearly stated. This cannot be over emphasized.

The Section 3 Utilization Plan needs to designate someone within the project organization as the Section 3 coordinator. This person is the assigned appointee for the recipient organization responsible for making sure the project adheres to the City's HCDD Section 3 reporting requirements and the project's Section 3 Utilization Plan, as set forth in the City's contract.

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Outreach Requirements

All bid announcements and complete specifications for Section 3 Applicable projects and funded activities included in the Consolidated Plan or issued by HCDD on HUD funded projects must be sent two calendar weeks prior to the bid closing date to:

Karen Franklin, Coordinator
Department of Housing and Community Development
Section 3 Coordinator
601 Sawyer Road, Suite 400
Houston, TX 77007

Recipients must document that outreach notices have been placed in print media outlets, including the Houston Chronicle and any other appropriate media outlets.

Submit Complete Section 3 Utilization Plans on all sub-contracts \$100,000 or more

Sub-contractors, with contracts of \$100,000 or more, are required to submit complete Section 3 Utilization Plans to the Contractor, who in turn will submit the entire package to HCDD, Attn: Section 3 Coordinator.

Signage

Section 3 signage is required for construction projects (multi-family – more than one unit). The sign must be large enough to be visible from the street. The sign must: (a) identify the name of the housing development; (b) state “This is a HUD Section 3 Project,” and (c) provide contractor contact information, including name and a telephone number.

Record Maintenance and Documentation

All projects, which are subject to Section 3 guidelines are required to maintain comprehensive documentation of their Section 3 outreach efforts and implementation activities. There should be clearly maintained Section 3 documentation files available to be produced to and reviewed by City and/or HUD officials.

Monthly Reports

HCDD requires monthly reports due on the tenth (10) day of each month. These reports shall be submitted to the HCDD, Section 3 Coordinator, 601 Sawyer Road, Suite 400, Houston, TX 77007.

The July 10th report shall also include a final Section 3 project report for the entire Consolidated Plan Program Year (July 1—June 30). This will be a cumulative report of Section 3 activities for the program year.

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Compliance Monitoring and Reviews

The City - HCDD staff will conduct regular compliance reviews, which consist of comprehensive analysis and evaluation of the recipient's or contractor's compliance with Section 3. Since the source of these funds is HUD, federal officials maintain the right and responsibility to conduct Section 3 compliance reviews, which may involve any and all Section 3 projects in the City's Consolidated Plan. Where noncompliance is found, the City will notify the recipient or contractor of the deficiency and recommendations for corrective actions. A finding of noncompliance by the City or HUD may result in sanctions based on the program from which the Section 3 covered assistance was funded.

City Resources to help with Section 3 Utilization Plan Implementation

Section 3 Resident Certifications

A list of Section 3 Certified Residents & Business Concerns with indication of skills and experiences will be developed by Department's Section 3 Coordinator.

Persons meeting the HUD guidelines of being low-income or very low-income, who have documentation that they reside in HCDD's Section 3 Plan area (Houston, Texas residents), may also be referred to the HCDD offices for certification as Section 3-eligible.

Business concerns may be referred to the Department's Section 3 coordinator for certification if they meet one (1) of the following HUD guidelines:

- 51% owned by a certified Section 3 eligible resident;
- 30% or more of the business' permanent full time employees are certified Section 3 residents; or
- 25% or more of all monies spent on the project is awarded to certified Section 3 Businesses

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Section 3 Procedures for All Developers Seeking Funds

Houston fully embraces the spirit and intent of its Section 3 obligations. Extra efforts are set forth, to any developer or contractor who intends to seek HUD-sourced funds from the City to clearly understand that Section 3 obligations and standards accompany any commitment of City funding where Section 3 thresholds are met. It is important to advise all Developers that the infusion of any HUD sourced dollars from the City into a project at ***any point in the project*** and at any level exceeding the federal threshold triggers the full applicability of the City Section 3 Policies on to the entire project.

What Must Developers/Contractors Required Do to meet Section 3 Obligations?

1. Complete a Section 3 Utilization Plan and submit it to the City for approval.
The City will make available to Developers/Contractors the Section 3 Utilization Plan format. The Section 3 Utilization Plan must include specific information regarding the following:
 - Identification of the project area
 - Specific information about the current workforce
 - Specific plan for hiring Section 3 eligible residents
 - Specific plan for engaging Section 3 certified business concerns
 - Firm commitment to include as part of all bids the Section 3 Utilization Plan (once approved by the City), which identifies activities as compliant with Section 3 and includes the City's Section 3 Clause in all sub-contracts
 - Firm commitment to conduct aggressive outreach and notification to potential Section 3 residents and businesses of hiring opportunities using site signage, flyers, etc.
 - Firm commitment to provide identified area employment agencies of jobs available from the established job pool of Section 3 area residents.
2. Modify the proposed Section 3 Utilization Plan. HCDD will review Section 3 Utilization Plans and provide review findings within 7 to 10 work days. Review comments will be made available to both the developer and contractor.
3. Sign an Acknowledgement of Receipt of Information Regarding Section 3 Requirements and obligations which accompany City (HUD-sourced) funding.

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Certification Procedures for a Section 3 Business Concern

1. Businesses applying for Section 3 business concerns certification can obtain an application from the HCDD office or via the Department website at www.houstonhousing.org. Each applicant must attach the following documentation to their application:
 - A completed “*Statement of Qualifications*”.
 - A documented satisfactory record of past work.
 - The applicant must have the necessary City Occupational License and submit a copy to the Section 3 Staff.
 - A copy of the previous year’s Federal Income Tax Filings. (This should be provided only by businesses to be determined eligible by owner income and residency.)
 - Income Eligibility Documentation on Ownership/Employees (if a business is qualifying via Section 3 residents).
 - A copy of the following insurance certificates. (All applicants must have at least the following insurance coverage for Section 3 contract work:
 - i. Manufacture’s and Contractor’s Public Liability Insurance” with minimum limits of \$250,000/\$500,000.
 - ii. Property Damage Insurance in an amount not less than \$100,000.
 - iii. Worker’s Compensation Insurance as required by State law governing Worker’s Compensation.
2. Once the preliminary intake process is complete, the Section 3 staff will review the documents for compliance.
3. Upon completion of the review, if the applicant has turned in all supporting documentation and has met the required criteria they will be recommended for certification by the Section 3 Coordinator. Once approved a formal letter is mailed out to announce their acceptance as a Section 3 certified Business Concerns.
4. If the application is incomplete, it will be passed onto a staff member to provide follow-up assistance. HCDD staff will be responsible for contacting the applicant to inform them of all missing documentation that is needed to complete the certification process. Once contact has been made, the application will be held in pending status until all appropriate documentation has been secured.
5. Once an entity is certified as a Section 3 Business Concerns, they are added to the official City of Houston Section 3 registry. All Section 3 certified businesses must apply for re-certification every three (3) years.

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Certification Procedures for Section 3 Residents

Orientation

- Individual walks in or is referred to the HCDD Section 3 office located at 601 Sawyer Suite 400, Houston TX 77007.
- Individuals can obtain a copy of the Section 3 Resident application from the General Contractor on the work site. All Contractors must have residents complete application and submit to HCDD. Additionally, electronic copies will be available at the department's website.
- Individual states that they are interested in Section 3 employment.
- Individuals are provided a Section 3 application form and orientation on eligibility requirements.

Eligibility

- Individual supplies all required documentation and completes the Section 3 resident application.
- Grievance Procedure.
- ID (driver's license and social security card) or valid Texas ID.
- Income eligibility documentation of household (must be at or below 80% AMI Section 8 Income Guidelines). (See attached limit income limits chart.)
- Proof of address.

Qualifications

- Previous Work Experience
- Listed Trade Skills

As a Section 3 Resident

- Once an individual is deemed job ready, and has completed all eligibility requirements, they will be issued a letter stating that they are Section 3 certified resident.
- A list of all the Section 3 certified residents will be forwarded to Developers and subcontractors on active Section 3 projects.
- Residents will also be provided with a list of Developers and active projects along with their contact information.
- Residents will also be given information on upcoming job fairs, information sessions, and access to job training and postings.
- Re-certification is required after 3 years.

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APPENDICES

- A. Section 3 Definitions
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**City of Houston
Housing and Community Development Department
Policies and Procedures for Section 3 Compliance**

Appendix A Section 3 Definitions

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APPENDIX A SECTION 3 DEFINITIONS

Applicant means any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

Business concern means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law engages in the type of business activity for which it was formed.

Business concern that provides economic opportunities for low-and very low-income persons. See definition of “Section 3 business concern” in this section.

Contract. See definition of “Section 3 covered contract” in this section.

Contractor means any entity, which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3-covered project.

Department or HUD means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part. The Field Office is identified as Housing and Community Development Department (HCDD).

Employment opportunities generated by Section 3 covered housing and community development assistance. This term means all employment opportunities arising in connection with Section 3 covered projects (as described in 135.3(a)(2)), including management and administrative jobs connected with the Section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialists, payroll clerk, etc.

Housing and community development assistance means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under Section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income person. See the definition of “Section 3 resident” in this section.

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Metropolitan area means the Low – Moderate Income statistical area, as established by the 2000 Census data.

Neighborhood area means:

- (1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designed in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.
- (2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

New hires mean full-time employees for permanent, temporary or seasonal employment opportunities.

Other HUD programs means HUD programs, other than HUD public and Indian housing programs that provide housing and community development assistance for “Section 3 covered projects”, as defined in this section. Attached is the map that includes geographical areas of the eligible Low to Moderate Income areas.

Recipient means any entity which receives Section 3 covered assistance directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian Tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

Secretary means the Secretary of Housing Urban Development (HUD).

Section 3 means Section 3 of the Housing Urban Development Act of 1968, as amended (12 USC 1701u).

Section 3 business concern means a business concern, as defined in this section.

- (1) That is 51 percent or more owned by Section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents, or
- (3) That provides evidence of a commitment to by contract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “Section 3 business concern”.

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Section 3 clause means the contract provisions set forth in 24 CFR 135.38.

- (1) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:
 - (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
 - (ii) Housing construction; or
 - (iii) Other public construction projects (which includes other buildings or improvements, regardless of ownership).

Section 3 covered contract means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a Section 3 covered contract because the contract is for work (i.e., the installation of a furnace) and thus is covered by Section 3.

Section 3 covered project means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 resident means: (1) A public housing resident; or (2) An individual who resides in the Low to Moderate Income areas in which the Section 3 covered assistance is expended, and who is:

- (i) *A low-income person*, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or
- (ii) *A very low-income person*, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

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Appendix B Section 3 Application and Reporting Packets

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APPENDIX B SECTION 3 APPLICATION AND REPORTING PACKETS

These packets contain forms that are required to be a part of Section 3 Utilization Plan Applications and Reports submitted to the City of Houston, Texas

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Project Number

Project Name

SECTION 3 PLAN

Submitted to:

City of Houston, Texas

**Housing and Community Development
Section 3 Program**

Submitted by:

Recipient (Borrower/Developer)

Date

General Contractor

Date

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Housing and Community Development Department
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The City's Section 3 Committee

In order to effectively manage the Section 3 Contract, the City of Houston is charged with providing expertise and developing a process for goal achievement on Section 3 designated projects. The City's Section 3 Team consists of:

City Contract Compliance Unit
Fair Housing Unit
HCDD Section 3 Unit

How do we operate?

We will act as a team to ensure consistent rulings, approve all Section 3 Plans, and make technical recommendations concerning the Section 3 Process.

When do we meet?

We will meet as needed, as a means of communication and to review Section 3 Plans and Applications.

Policy & Procedures

The Section 3 Utilization Plan must include specific information regarding the following:

- Identification of the Project Area
- Specific Information about the current workforce
- Specific plan for hiring Section 3 eligible residents
- Specific plan for engaging Section 3 designated business concerns
- Firm commitment to include as part of all bids the Section 3 Plan (once approved by the City) which identifies activities to comply with the Section 3
- Program and the City's Section 3 Clause in all sub-contracts
- Firm commitment to conduct aggressive outreach and notification to potential Section 3 residents and businesses of hiring opportunities using site signage, flyers, etc.
- Firm commitment to provide identified area employment agencies of jobs available from the established job pool of Section 3 area residents.

Once the Section Utilization Plan has been submitted, the City's Section 3 Team will review the Plan and provide feedback within 7 to 10 working days. If the Section 3 Plan is not approved, notification will include review comments which will identify deficiencies in the plan. The City will not move forward with any commitment of funding to a project without an approved Section 3 Utilization Plan. Applicants will be given an opportunity to revise plans in accordance with the Review Team's feedback. When the Section 3 Plan is approved, it will become part of the set of contractual documents with the City.

Once the General Contractor and sub-contractor are selected, the City will require the Recipient (Borrower/Developer) to submit additional components of the Section 3 Plan that outlines how all Section 3 Contract goals will be met. This plan will consist of anticipated hard numbers and dollar amounts for the employment of Section 3 Resident and the utilization of Section 3 Business.

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After the plan is approved, it will be reviewed and monitored regularly to evaluate the specific project's success and failures in obtaining the Section 3 Project goals.

Goals of the Section 3 Contract

HUD regulations (24 C.F.R., Section 135) establish goals requiring that recipients of housing and community development funds and their contractors show that 30% of any newly hired employees each year come from targeted low and very low income population which includes public housing residents, residents of the neighborhoods (including the homeless in which Section 3 Projects are located, participants in Youthbuild programs, and other low income individuals. Recipients must also commit to allocate at least 10% of building trades contracts and three percent of all other contracts to businesses certified as Section 3 eligible business concerns. These federal mandates apply to all Section 3 contracts with the City of Houston and specific actions to achieve these goals are essential for a Section 3 Utilization Plan to receive approval by the City.

- The employment goal of Section 3 is that at least 30% of all new hires “new employee” generated by this development be extended to persons that are Section 3 eligible resident; and
- The utilization of Section 3 Business Concern is that at least 10% of the total dollar amount awarded to the Recipient (Borrower/Developer) for the development of the project must be awarded to eligible Section 3 Businesses in the construction industry; and
- At least 3% of the total dollar amount awarded to the Recipient (Borrower/Developer) for the development of the project must be awarded to eligible Section 3 Businesses in nonconstruction fields. (Ex. Accounting Firm, Insurance Providers, Marketing/P.R. Firm, Law Consultations, etc.)

What is the definition of “Core Employees”?

Core employees are defined as all employees on an individual company's payroll on or before the effective date of signing the Section 3 contract. **Please submit your core list of employees (name & social security number) effective the date of signing the Section 3 Contract. This list must be received prior to the start of the Project.**

What is the definition of “New Employees”?

Any employee that an individual company hires after the effective date of signing the Section 3 contract with the City of Houston is considered a new employee.

What is the definition of “Section 3 Resident”?

A person of low and/or very low income resident residing in “affected neighborhoods” adjacent or near an eligible Section 3 Project. This includes public housing residents, residents of the neighborhoods (including the homeless in which Section 3 Projects are located, participants in Youthbuild programs, and other low income individuals. **HCDD's Section 3 Office** is responsible for all qualifying, recruiting, and referring Section 3 Residents for placement.

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What is the definition of “Section 3 Business Concern”?

A Section 3 Business concern is a business:

1. That is 51% of the business is owned by Section 3 Residents; or
2. whose current, permanent, full-time employees are composed of at least 30% Section 3 eligible residents, or within three years of the date of first employment with the business concern were Section 3 residents, or
3. That provides evidence of a commitment to by contract in excess of 25 percent of the dollar award of all contracts to be awarded to business concerns that meet the qualifications set forth in (1) or (2) of this definition.

Union Resident

Any Union member who meets the Section 3 eligibility guidelines may count towards the Section 3 Hiring Goals.

Completion of the attached information represents your Section 3 Plan.

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SECTION 3 APPLICATION

Recipient (Borrower/Developer) Name	_____
Recipient (Borrower/Developer) Address	_____
Contact Person	_____
Phone	_____
FAX	_____
E-Mail	_____
Federal Tax Identification Number	_____
State Tax Identification Number	_____
Project Name	_____
Project Address	_____
Strategy Area Project is located in	_____
Date Application Submitted	_____
Dollar Amount Award	_____
General Contractor Name	_____
General Contractor Address	_____
Contact Person	_____
Phone	_____
FAX	_____
E-Mail	_____
Federal Tax Identification Number	_____
State Tax Identification Number	_____
Date Awarded Contract	_____
Appointed Section 3 Coordinator	_____
Dollar Amount Award for this contract	_____

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**SECTION 3 PLAN FORMAT FOR CONTRACTS
AND SUBCONTRACTS OF \$100,000 AND OVER**

POLICY

The purpose of this format is to set forth procedures to assure compliance with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u. Section requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns that are located in or owned in substantial part by persons residing in the project.

INSTRUCTIONS

Contractor and Subcontractor shall fill out, sign and return to the City of Houston, Housing & Community Development Department, the following applicable forms at the times identified. All forms must be signed by a duly authorized member of the firm. If you have other pertinent information in addition to that requested on the forms, please include it as an attachment. Listed below are the forms which the Contractor must submit:

Section 3 Application	B-7	Initial Inquiry
Section 3 Resident Certification	B-9	Upon Employment
Section 3 Business Certification	B-10	10 days after Notice of Intent to Award
Contractor Section 3 Compliance Certification	B-12	10 days after Notice of Intent to Award
First Source Hiring Agreement	B-13	10 days after Notice of Intent to Award
Contractor Workforce Analysis Form 1	B-15	10 days after Notice of Intent to Award
Subcontractor Workforce Analysis Form 2	B-16	10 days after Notice of Intent to Award
Section 3 Business Utilization Form 3	B-17	10 days after Notice of Intent to Award
Contractor Section 3 Compliance Form 4a	B-18	Monthly, after Start of Work
Contractors Income Verification Form 5	B-19	To be Maintained in Contractors Records
HUD Income Limits	H-2	Section 3 Resident Certification
Low-Moderate Income Area Map		Attachment

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Housing and Community Development Department
Policies and Procedures for Section 3 Compliance

SECTION 3 RESIDENT CERTIFICATION

1. I am a resident of the City of Houston, Texas and have been since_____.
2. My current address is_____.
3. My source of income is_____.
(exact source, i.e. employers name, SSI, AFDC, etc....)
4. My monthly income is \$_____ and my yearly income is \$_____.

Signature_____

Telephone Number:_____

City of Houston
Housing and Community Development Department
Policies and Procedures for Section 3 Compliance

STATE OF TEXAS §

City OF HOUSTON §

SECTION 3 BUSINESS CERTIFICATION

The undersigned makes this affidavit with full knowledge that its contents will be used in the expenditure of funds provided by the United States Government. Under penalty of perjury he/she hereby states:

1. I am the _____ of _____
(owner, partner, officer, representative, agent) (Company Name)
and whose business concerns is (check only one)
 - ☐ 51 percent or more is owned by Section 3 residents; or
 - ☐ Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three (3) years of the date of first employment with the business concern were Section 3 residents; or
 - ☐ Provides subcontracts in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraph I.B.(1) or (2) of the definition of Section 3 business concerns.
 - ☐ None of the above
2. And the Project _____ I/We claim preference in the category indicated below (check only one)
 - ☐ **(Category 1 business)**
Business concerns that are 51 percent or more owned by residents of the housing development(s) for which the Section 3 covered assistance is expended, or whose full-time, permanent work force includes 30 percent of these person as employees;
 - ☐ **(Category 2 business)**
Business concerns that are 51 percent or more owned by residents of other housing development(s) managed by the Housing Authority, or whose full-time, permanent work force includes 30 percent of these persons as employees;

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() (Category 3 business)

HUD Youthbuild programs being carried out in the City of Houston, Texas where the Section 3 covered assistance is expended;

() (Category 4 business)

Business concerns that are 51 percent or more owned by Section 3 residents; or, whose permanent, full-time work force includes no less than 30 percent Section 3 residents; or, that subcontract in excess of 25 percent of the dollar awarded of the total amount of the subcontracts identified above as a **Category 1** or a **Category 2 business**.

() No preference claimed.

Affiant's Signature: _____ Address: _____

Affiant's Title: _____ Telephone: _____

Affiant's Company Name:

Subscribed and sworn to under oath before me this _____ day of _____, 20____.

My commission expires:

NOTARY: _____

City of Houston
Housing and Community Development Department
Policies and Procedures for Section 3 Compliance

STATE OF TEXAS §
City OF HOUSTON §

CONTRACTOR'S SECTION 3 COMPLIANCE CERTIFICATION

The undersigned makes this affidavit with full knowledge that its contents will be used in the expenditure of funds provided by the United States Government. Under penalty of perjury I hereby state:

1. I am the _____ of _____.
(owner, partner, officer, representative, agent) (Company Name)
2. My company adheres to Section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended, 12 U.S.C. 1701u which requires, to the greatest extent feasible, that a "good faith effort" given to identifying small businesses located within the boundaries of the Section 3 service area, making them aware of contracting opportunities, encouraging their participation and actually awarding contracts to Section 3 business concerns through the assistance of the City of Houston and their referral system.
3. An attempt will be made to undertake outreach activities intended to encourage participation by Section 3 residents in training and employment opportunities, to include but not be limited to utilizing the referral established by the City of Houston, the Texas Employment Commission and Houston Works.

Affiant's Signature: _____ Address: _____

Affiant's Title: _____ Telephone: _____

Affiant's Company Name: _____

Subscribed and sworn to under oath before me this _____ day of _____, 20____.

My commission expires:

NOTARY: _____

City of Houston
Housing and Community Development Department
Policies and Procedures for Section 3 Compliance

CITY OF HOUSTON
HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT
SECTION 3 COMPLIANCE

First Source Hiring Agreement

This agreement, is entered into this ___ day of __, 201_, by and between the City of Houston and, hereinafter referred to as the "City", and hereinafter referred to the "Contractor", in connection with work to be performed in relation to the City's HUD-assisted project entitled, hereinafter referred to as the "project".

Whereas, HUD has promulgated certain regulations to implement Section 3 of the Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. 1701u)(Section 3), which regulations were published in the Federal Register June 30, 1994 at page 33865, hereinafter referred to as the "Section 3 regulations"; and

Whereas, the purpose of Section 3 regulations is to ensure that employment and other economic opportunities generated by Section 3 covered assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low-and very low-income persons, and to business concerns, which provide economic opportunities to such persons.

Whereas, HUD has set forth numerical employment, and contracting goals to be achieved by all Community Development recipients of Section 3 covered assistance and by other recipients of such assistance in which HUD's share exceeds \$200,000 per project and by those Contractors whose share of such projects exceeds \$100,000; and

Whereas, the numerical goal so established by HUD applicable to the Project is set forth below; and

Whereas, recipients of Section 3-covered assistance and their contractors can demonstrate compliance with the Section 3 regulations by committing to employ Section 3 eligible persons as the applicable percentage of the aggregate number of new hires during the time period involved in the Section 3-covered project; and

Whereas, the City and the Contractor are desirous of being in compliance with the Section 3 regulations as they relate to the Project;

Now Therefore, the City and the Contractor agree as follows:

1. The Contractor and any of its subcontractors shall supply the City with a list of all full-time employees currently employed, indicating which, if any, of said employees were hired within the past three years and were also low or very low-income persons when so hired;

City of Houston
Housing and Community Development Department
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2. The Contractor and any of its subcontractors shall provide a listing of any and all positions for which new hires are expected to be required as a result of the Project;
3. The Contractor and any of its contractors will, to the greatest extent feasible, endeavor to hire 30% percent of the new hires generated by the Project from the following list of Section 3-eligible groups, in the order of priority listed:
 - A. Section 3 residents of service area or neighborhood;
 - B. Youth build participants;
 - C. Homeless projects; Homeless persons; and
 - D. Other Section 3 residents.
4. The Contractor and any of its subcontractors will be encouraged to make new hires from the list of Section 3-eligible groups in Paragraph 3 above for any and all other projects assisted with Federal funding, whether or not such project is subject to the Section 3 regulations;
5. The Contractor and any of its subcontractors shall accept referrals of Section 3-eligible persons from the City.

Provided, however, that nothing in this agreement is to be construed requiring any party hereto, or its subcontractors, to hire any person or persons who are unqualified to or incapable of carrying out the work required of any such new hires.

Witness our hands and seals on the date first written above:

The City of Houston
Department of Housing & Community Development

Witness: _____

by _____
its Director

Contractors Name:

Witness: _____

by _____
its Owner/President

CONTRACTOR WORKFORCE ANALYSIS FORM

ESTIMATED PROJECT WORK FORCE BREAKDOWN

Job Category	Total Estimated Positions Needed for Project	No. Positions Occupied by Permanent Employees	Number of Positions Not Occupied	Number of Positions to be Filled w/Section 3 Residents
Officer/Supervisor				
Professionals				
Technical				
Hsg Sales/Rent				
Office/Clerical				
Service Workers				
Others				
TRADE:				
Journeyman				
Apprentices				
Laborers				
Trainees				
Others				
TRADE:				
Journeyman				
Apprentices				
Laborers				
Trainees				
Others				

EMPLOYMENT CERTIFICATION (make additional copies of this form if necessary)

The Company hereby certifies that the above table represents the appropriate number of employee's positions required in the execution of project _____ and also represents the number of Section 3 service area residents that the company proposes to employ.

The Company certifies that it will make a good faith effort to employ the number of lower income employees stated utilizing such community-based organizations and service agencies as the Texas Employment Commission and Houston Works.

Company: _____

Title: _____

By: _____

Date: _____

SUBCONTRACTOR WORKFORCE ANALYSIS FORM

ESTIMATED PROJECT WORK FORCE BREAKDOWN

Job Category	Total Estimated Positions Needed for Project	No. Positions Occupied by Permanent Employees	Number of Positions Not Occupied	Number of Positions to be Filled w/Section 3 Residents
Officer/Supervisor				
Professionals				
Technical				
Hsg Sales/Rent				
Office/Clerical				
Service Workers				
Others				
TRADE:				
Journeyman				
Apprentices				
Laborers				
Trainees				
Others				
TRADE:				
Journeyman				
Apprentices				
Laborers				
Trainees				
Others				

EMPLOYMENT CERTIFICATION (make additional copies of this form if necessary)

The Company hereby certifies that the above table represents the appropriate number of employee's positions required in the execution of project _____ and also represents the number of Section 3 service area residents that the company proposes to employ.

The Company certifies that it will make a good faith effort to employ the number of lower income employees stated utilizing such community-based organizations and service agencies as the Texas Employment Commission and Houston Works.

Company: _____

Date: _____

By: _____

Title: _____

SECTION 3 BUSINESS UTILIZATION FORM

The Company shall utilize Business concerns located in the Section 2 service area for project _____ in contracting for work to be performed in connection with the completion of the contract. To this end, the Company shall require services of companies as follows:

Project Name: _____ Total Amount of Contract: _____

Name of Prime Contractor: _____ Address: _____

Name of Contact Person: _____ Date: _____

NAME OF SUBCONTRACTOR	SECTION 3 BUSINESS *	ADDRESS & PHONE NO.	TRADE/SERVICE OR SUPPLY	CONTRACT AMOUNT

* Check if a Section 3 Business concern

TOTAL DOLLAR AMOUNT AWARDED TO SECTION 3 BUSINESS: \$ _____

TOTAL DOLLAR AMOUNT OF ALL SUBCONTRACTS: \$ _____

(NOTE: INCLUDE "SUBCONTRACTOR WORKFORCE ANALYSIS FORM 2")

City OF HOUSTON
HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT
Real Estate Compliance
CONTRACTOR SECTION 3 COMPLIANCE FORM

CONTRACTOR NAME _____ PROJECT NAME _____
 ADDRESS _____ CONTRACT AMOUNT _____
 CONTACT PERSON _____ DATE REPORT SUBMITTED _____
 PHONE NUMBER _____

Racial/Ethnic Codes:
 1-White American
 2-Black American
 3-Native American
 4--Hispanic American
 5-Asian Pacific American
 6-Hasidic Jews (For Part II only)

Part 1: Employment and Training (*Include New Hires In columns C and D.)

A Job Category	B Number of New Hires: TOTAL / Section 3	C Total Number of staff hours for Section 3 Employees and Trainees *	D Number of Section 3 Employees and Trainees*	E Radical/Ethnic Code(s) For Columns D and E, show Numbers 1 2 3 4 5
Professionals				
Technicians				
Office/Clerical				
Construction by Trade (List Trade:				
Trade:				
Trade:				
Trade:				
Trade::				
Other:(List)				

Part II Section A 3 Business

A Type of Contracts	B Total dollar amount awarded on project	C Total dollar amount awarded to Section 3	D Total number of Section 3 Business receiving contract	E Radical/Ethnic Code(s) For Columns D and E, show Numbers 1 2 3 4 5 6
Construction				
Non-Construction				

CONTRACTOR'S INCOME VERIFICATION FORM

Contractor's Name: _____
 Address: _____
 Contact Person: _____
 Phone Number: _____

Project Name: _____
 Date Report Submitted: _____

NAME OF EMPLOYEE	TITLE	City OF HOUSTON SECTION 3 RESIDENTS		MONTHLY SALARY	IS SALARY BELOW 80% OF MEDIAN	
		YES	NO		YES	NO

Appendix C Section 3 Summary

What is Section 3?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

How does Section 3 promote self- sufficiency?

Section 3 is a starting point to obtain job training, employment and contracting opportunities. From this integral foundation coupled with other resources comes the opportunity for economic advancement and self-sufficiency.

- Federal, state and local programs
- Advocacy groups
- Community and faith-based organizations

How does Section 3 promote homeownership?

Section 3 is a starting point to homeownership. Once a Section 3 resident has obtained employment or contracting opportunities they have begun the first step to self-sufficiency.

Remember, “It doesn’t have to be fields of dreams”. Homeownership is achievable. For more information visit our HUD [website](#).

Who are Section 3 residents?

Section 3 residents are:

- Public housing residents or
- Persons who live in the area where a HUD-assisted project is located and who have a household income that falls below [HUD’s income limits](#).

Determining Income Levels

- Low income is defined as 80% or below the median income of that area.
- Very low income is defined as 50% or below the median income of that area.

What is a Section 3 business concern?

A business that:

- Is 51 percent or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

What programs are covered?

Section 3 applies to HUD-funded Public and Indian Housing assistance for development, operating, and modernization expenditures.

Section 3 also applies to certain HUD-funded Housing and Community Development projects that complete housing rehabilitation, housing construction, and other public construction.

What types of economic opportunities are available under Section 3?

- Job training
- Employment
- Contracts

Any employment resulting from these expenditures, including administration, management, clerical support, and construction, is subject to compliance with Section 3.

*Examples of
Opportunities include:*

- | | | |
|------------------------|---------------------|-----------------------|
| • Accounting | • Electrical | • Marketing |
| • Architecture | • Elevator | • Painting |
| • Appliance repair | • Construction | • Payroll |
| • Bookkeeping | • Engineering | • Photography |
| • Bricklaying | • Fencing | • Plastering |
| • Carpentry | • Florists | • Plumbing |
| • Carpet Installation | • Heating | • Printing Purchasing |
| • Catering | • Iron Works | • Research |
| • Cement/Masonry | • Janitorial | • Surveying |
| • Computer/Information | • Landscaping | • Tile setting |
| • Demolition | • Machine Operation | • Transportation |
| • Drywall | • Manufacturing | • Word processing |

Who will award the economic opportunities?

Recipients of HUD financial assistance will award the economic opportunities. They and their contractors and subcontractors are required to provide, to the greatest extent feasible, economic opportunities consistent with existing Federal, State, and local laws and regulations.

Who receives priority under Section 3?

For training and employment:

- Persons in public and assisted housing
- Persons in the area where the HUD financial assistance is spent
- Participants in HUD Youthbuild programs
- Homeless persons

For contracting:

- Businesses that meet the definition of a Section 3 business concern

How can businesses find Section 3 residents to work for them?

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities are:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers

Are recipients, contractors, and subcontractors required to provide long-term employment opportunities, not simply seasonal or temporary employment?

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs.

Recipients and contractors are encouraged to have Section 3 residents make up at least 30 percent of their permanent, full-time staff.

A Section 3 resident who has been employed for 3 years may no longer be counted towards meeting the 30 percent requirement. This encourages recipients to continue hiring Section 3 residents when employment opportunities are available.

What if it appears an entity is not complying with Section 3?

There is a complaint process. Section 3 residents, businesses, or a representative for either may file a complaint if it seems a recipient is violating Section 3 requirements are being on a HUD-funded project.

Will HUD require compliance?

Yes. HUD monitors the performance of contractors, reviews annual reports from recipients, and investigates complaints. HUD also examines employment and contract records for evidence that recipients are training and employing Section 3 residents and awarding contracts to Section 3 businesses.

How can Section 3 residents or Section 3 business concerns allege Section 3 violations?

You can file a written complaint with your [local HUD Field Office](#).

A written complaint should contain:

- Name and address of the person filing the complaint
- Name and address of subject of complaint (HUD recipient, contractor or subcontractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective action sought i.e. training, employment or contracts

Appendix D Section 3 Regulations

§ 135.1 24 CFR Subtitle B, Ch. I (4–1–03 Edition)

APPENDIX TO PART 135

AUTHORITY: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

SOURCE: 59 FR 33880, June 30, 1994, unless otherwise noted.

EFFECTIVE DATE NOTE: At 59 FR 33880, June 30, 1994, part 135 was revised effective August 1, 1994 through June 30, 1995. At 60 FR 28325, May 31, 1995, the effective period was extended until the final rule implementing changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992 is published and becomes effective.

Subpart A—General Provisions

§ 135.1 Purpose.

(a) *Section 3.* The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

(b) *Part 135.* The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

§ 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect. [60 FR 28326, May 31, 1995]

§ 135.3 Applicability.

(a) *Section 3 covered assistance.* Section 3 applies to the following HUD assistance (section 3 covered assistance):

(1) *Public and Indian housing assistance.*

Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:

(i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);

(ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and

(iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;

(2) *Housing and community development assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and community development assistance that is used for the following projects;

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; and

(iii) Other public construction.

(3) *Thresholds—(i) No thresholds for section 3 covered public and Indian housing assistance.* The requirements of this part apply to section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by section 3, regardless of the amount of the contract or subcontract.

(ii) *Thresholds for section 3 covered housing and community development assistance—(A) Recipient thresholds.* The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.

(B) *Contractor and subcontractor thresholds.* The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

Office of Asst. Secy., Equal Opportunity, HUD § 135.5

(C) *Threshold met for recipients, but not contractors or subcontractors.* If a recipient receives section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the section 3 preference requirements only apply to the recipient.

(b) *Applicability of section 3 to entire project or activity funded with section 3 assistance.* The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

(c) *Applicability to Indian housing authorities and Indian tribes.* Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). (See 24 CFR part 905.)

(d) *Other HUD assistance and other Federal assistance.* Recipients, contractors and subcontractors that receive HUD assistance, not listed in paragraph (a) of this section, or other Federal assistance, are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons, and business concerns owned by low- and very low-income persons, or which employ low- and very low-income persons.

§ 135.5 Definitions.

The terms *Department*, *HUD*, *Indian housing authority (IHA)*, *Public housing agency (PHA)*, and *Secretary* are defined in 24 CFR part 5. *Annual Contributions Contract (ACC)* means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

Applicant means any entity which makes an application for section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Business concern means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Business concern that provides economic opportunities for low- and very low-income persons. See definition of “section 3 business concern” in this section.

Contract. See the definition of “section 3 covered contract” in this section.

Contractor means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

Employment opportunities generated by section 3 covered assistance means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in § 135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in § 135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing authority (HA) means, collectively, public housing agency and Indian housing authority.

Housing and community development assistance means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

Housing development means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD’s public and Indian housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild programs mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

Indian tribes shall have the meaning given this term in 24 CFR part 571.

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income person. See the definition of “section 3 resident” in this section.

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

Neighborhood area means: (1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation. (2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

New hires mean full-time employees for permanent, temporary or seasonal employment opportunities.

Nonmetropolitan county means any county outside of a metropolitan area.

Other HUD programs means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for “section 3 covered projects,” as defined in this section.

Public housing resident has the meaning given this term in 24 CFR part 963.

Recipient means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which section 3 applies and does not include contractors.

Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means a business concern, as defined in this section—(1) That is 51 percent or more owned by section 3 residents; or (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

Section 3 clause means the contract provisions set forth in § 135.38.

Section 3 covered activity means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

Section 3 covered assistance means: (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act; (2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act; (3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act; (4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with: (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement); (ii) Housing construction; or (iii) Other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 covered contract means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. “Section 3 covered contracts” do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). “Section 3 covered contracts” also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

Section 3 covered project means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 joint venture. See § 135.40.

Section 3 resident means: (1) A public housing resident; or (2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is: (i) A *low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or (ii) A *very low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. (3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Section 8 assistance means assistance provided under section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart G.

Service area means the geographical area in which the persons benefitting from the section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. In HUD's Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power, is limited to the area of tribal jurisdiction.

Subcontractor means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of section 3 covered assistance, or arising in connection with a section 3 covered project.

Very low-income person. See the definition of "section 3 resident" in this section.

Youthbuild programs. See the definition of "HUD Youthbuild programs" in this section.

[59 FR 33880, June 30, 1994, as amended at 61 FR 5206, Feb. 9, 1996]

§ 135.7 Delegation of authority.

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary is further authorized to redelegate functions and responsibilities to other employees of HUD; *provided however*, that the authority to issue rules and regulations under this part, which authority is delegated to the Assistant Secretary, may not be redelegated by the Assistant Secretary.

§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.

(a) *Certification of compliance with part 135.* All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to funding awards made under the NOFA. Additionally the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant's certification unless there is evidence substantially challenging the certification.

(b) *Statement of purpose in NOFAs.* (1) For competitively awarded assistance in which the grants are for activities administered by an HA, and those activities are anticipated to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. (2) For competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded to the applicant may exceed \$200,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(c) *Section 3 as NOFA evaluation criteria.* Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

§ 135.11 Other laws governing training, employment, and contracting.

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

(a) *Procurement standards for States and local governments (24 CFR 85.36)*—(1) *General.* Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals. (2) *Flexible Subsidy Program.*

Multifamily project mortgagors in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagor, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) *Procurement standards for other recipients (OMB Circular No. A-110).* Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A-110, section 3 is a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) *Federal labor standards provisions.* Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a—276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines. These requirements include adherence to the wage rates and ratios of apprentices or trainees to journeymen set out in "approved apprenticeship and training programs," as described in paragraph (d) of this section.

(d) *Approved apprenticeship and trainee programs.* Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) *Compliance with Executive Order 11246.* Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended by Executive Order 12086, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

§ 135.30 Numerical goals for meeting the greatest extent feasible requirement.

(a) *General.* (1) Recipients and covered contractors may demonstrate compliance with the “greatest extent feasible” requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns. (2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule. (3) For recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns. (4) The numerical goals established in this section represent minimum numerical targets.

(b) *Training and employment.* The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ section 3 residents, to the greatest extent feasible, should be made at all job levels. (1) *Numerical goals for section 3 covered public and Indian housing programs.* Recipients of section 3 covered public and Indian housing assistance (as described in § 135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as: (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995; (ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; (iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter. (2) *Numerical goals for other HUD programs covered by section 3.* (i) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project; (ii) Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as: (A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995; (B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; (C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter. (3) Recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as: (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995; (ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) *Contracts.* Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns: (1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and (2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) *Safe harbor and compliance determinations.* (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements. (2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in § 135.40, which were provided in its efforts to comply with section 3 and the requirements of this part.

§ 135.32 Responsibilities of the recipient.

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to: (a) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance; (b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in § 135.38 in all solicitations and contracts. (c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in § 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in § 135.30; (d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in § 135.30 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth at § 135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

§ 135.34 Preference for section 3 residents in training and employment opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in paragraph (a) of this section. (1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority: (i) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents); (ii) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents); (iii) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents); (iv) Other section 3 residents. (2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to: (i) Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents); and (ii) Participants in HUD Youthbuild programs (category 2 residents). (iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority; (iv) Other section 3 residents. (3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the section 3 covered assistance within the service area or neighborhood where the section 3 covered project is located. (4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located. (b) *Eligibility for preference.* A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a section 3 resident, as defined in § 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.) (c) *Eligibility for employment.* Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

§ 135.36 Preference for section 3 business concerns in contracting opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to award section 3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section. (1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority: (i) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses); (ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or (iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses). (iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section. (2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to: (i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and (ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses); (iii) Other section 3 business concerns.

(b) *Eligibility for preference.* A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in § 135.5.

(c) *Ability to complete contract.* A section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

§ 135.38 Section 3 clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause): A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations. C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin. D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135. E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135. F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts. G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

§ 135.40 Providing other economic opportunities.

(a) *General.* In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) *Other training and employment related opportunities.* Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of “upward mobility”, “bridge” and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) *Other business related economic opportunities.* (1) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons. (2) A *section 3 joint venture* means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern: (i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and (ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

Subpart C [Reserved]

Subpart D—Complaint and Compliance Review

§ 135.70 General.

(a) *Purpose.* The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary’s review of a recipient’s or contractor’s compliance with the regulations in this part.

(b) *Definitions.* For purposes of this subpart:

(1) *Complaint* means an allegation of noncompliance with regulations of this part made in the form described in § 135.76(d).

(2) *Complainant* means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) *Noncompliance with section 3* means failure by a recipient or contractor to comply with the requirements of this part.

(4) *Respondent* means the recipient or contractor against which a complaint of noncompliance has been filed. The term “recipient” shall have the meaning set forth in § 135.7, which includes PHA and IHA.

§ 135.72 Cooperation in achieving compliance.

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3 compliance reviews, in investigations of allegations of noncompliance made under § 135.76, and with the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of section 3.

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

§ 135.74 Section 3 compliance review procedures.

(a) *Compliance reviews by Assistant Secretary.* The Assistant Secretary shall periodically conduct section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations in this part.

(b) *Form of compliance review.* A section 3 compliance review shall consist of a comprehensive analysis and evaluation of the recipient’s or contractor’s compliance with the requirements and obligations imposed by the regulations of this part, including an analysis of the extent to which section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of section 3.

(c) *Where compliance review reveals noncompliance with section 3 by recipient or contractor.* Where the section 3 compliance review reveals that a recipient or contractor has not complied with section 3, the Assistant Secretary shall notify the recipient or contractor of its specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies may be corrected. HUD shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) *Continuing noncompliance by recipient or contractor.* A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. Debarment, suspension and limited denial of participation pursuant to HUD’s regulations in 24 CFR part 24, where appropriate, may be applied to the recipient or the contractor.

(e) *Conducting compliance review before the award of assistance.* Section 3 compliance reviews may be conducted before the award of contracts, and especially where the Assistant Secretary has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(f) *Consideration of complaints during compliance review.* Complaints alleging noncompliance with section 3, as provided in § 135.76, may also be considered during any compliance review conducted to determine the recipient’s conformance with regulations in this part.

§ 135.76 Filing and processing complaints.

(a) *Who may file a complaint.* The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3: (1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance with a recipient or contractor, or by a representative who is not a section 3 resident but who represents one or more section 3 residents; (2) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly

situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or by an individual representative of section 3 business concerns.

(b) *Where to file a complaint.* A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC, 20410.

(c) *Time of filing.* (1) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown. (2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance. (3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(d) *Contents of complaint*—(1) *Written complaints.* Each complaint must be in writing, signed by the complainant, and include: (i) The complainant's name and address; (ii) The name and address of the respondent; (iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance; (iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature. (2) *Amendment of complaint.* Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) *Resolution of complaint by recipient.* (1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with section 3, the complaint shall be sent to the recipient for resolution. (2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary. (3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties. (4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension. (5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) *Informal resolution of complaint by Assistant Secretary*—(1) *Dismissal of complaint.* Upon receipt of the recipient's written recommendation that there is no merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal. (2) *Informal resolution.* Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided. (3) *Effective date of informal resolution.* The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) *Sanctions.* Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited denial of participation in HUD programs.

(h) *Investigation of complaint.* The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of section 3 and this part.

(i) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(j) *Judicial relief.* Nothing in this subpart D precludes a section 3 resident or section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

(Approved by the Office of Management and Budget under control number 2529-0043)

Subpart E—Reporting and Recordkeeping

§ 135.90 Reporting.

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of section 3. Where the program providing the section 3 covered assistance requires submission of an annual performance report, the section 3 report will be submitted with that annual performance report. If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

(Approved by the Office of Management and Budget under control number 2529-0043)

§ 135.92 Recordkeeping and access to records.

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program under which section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

APPENDIX TO PART 135

I. Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents

- (1) Entering into “first source” hiring agreements with organizations representing Section 3 residents.
- (2) Sponsoring a HUD-certified “Step-Up” employment and training program for section 3 residents.
- (3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.
- (4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in § 135.34) reside.
- (5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.
- (6) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
- (7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.
- (8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.
- (9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
- (10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.
- (11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA’s or contractor’s training and employment positions.
- (12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA’s or contractor’s training and employment positions.
- (13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- (14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the HA or contractor intends to fill.
- (15) For an HA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as “force account labor” in HUD’s Indian housing regulations. See 24 CFR 905.102, and § 905.201(a)(6).)
- (16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.
- (17) Undertaking job counseling, education and related programs in association with local educational institutions.
- (18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.
- (19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.
- (20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

II. Examples of Efforts To Award Contracts to Section 3 Business Concerns

- (1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).
- (2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.
- (3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.
- (4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.
- (5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.
- (6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.
- (7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
- (8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
- (9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
- (10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- (11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.
- (12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.
- (13) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- (14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- (15) Developing a list of eligible section 3 business concerns.
- (16) For HAs, participating in the “Contracting with Resident-Owned Businesses” program provided under 24 CFR part 963.
- (17) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- (18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.

(19) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.

(20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.

(21) Actively supporting joint ventures with section 3 business concerns.

(22) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the “contracting party”) for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

(1) *Small Purchase Procedures.* For section 3 covered contracts aggregating no more than \$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

(i) *Solicitation.* (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of: —the section 3 covered contract to be awarded with sufficient specificity; —the time within which quotations must be submitted; and —the information that must be submitted with each quotation. (B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) *Award.* (A) Where the section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation. (B) Where the section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

(2) *Procurement by sealed bids (Invitations for Bids).* Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (section 3 business concerns, and nonsection 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid—(A) is within the maximum total contract price established in the contracting party’s budget for the specific project for which bids are being taken, and (B) is not more than “X” higher than the total bid price of the lowest responsive bid from any responsible bidder. “X” is determined as follows: x=lesser of:

When the lowest responsive bid is less than \$100,000 10% of that bid or \$9,000.

When the lowest responsive bid is:

At least \$100,000, but less than \$200,000 9% of that bid, or \$16,000.

At least \$200,000, but less than \$300,000 8% of that bid, or \$21,000.

At least \$300,000, but less than \$400,000 7% of that bid, or \$24,000.

At least \$400,000, but less than \$500,000 6% of that bid, or \$25,000.

At least \$500,000, but less than \$1 million 5% of that bid, or \$40,000.

At least \$1 million, but less than \$2 million 4% of that bid, or \$60,000.

At least \$2 million, but less than \$4 million 3% of that bid, or \$80,000.

At least \$4 million, but less than \$7 million 2% of that bid, or \$105,000.

\$7 million or more 1½% of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(3) *Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).* (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor’s section 3 strategy to comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor’s responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

Appendix E HUD Income Limits

**Houston-Baytown-Sugar Land
2008 Annual and Monthly Income Limits For
Extremely Low-Income, Very Low-Income and Low-Income Families
Under the Housing Act of 1937**

Released March 10, 2010 (*updated annually*)

Persons in Household	30% of Median		50% of Median		80% of Median	
	Extremely Low Income Annual Income	Monthly Income	Very Low-Income Annual Income	Monthly Income	Low-Income Annual Income	Monthly Income
1	\$13,400	\$1,117	\$22,350	\$1,863	\$35,750	\$2,979
2	15,300	1,275	25,500	2,125	40,850	3,404
3	17,250	1,438	28,700	2,392	45,950	3,829
4	19,150	1,596	31,900	2,658	51,050	4,254
5	20,700	1,725	34,450	2,871	55,150	4,596
6	22,200	1,850	37,000	3,083	59,200	4,933
7	23,750	1,979	39,550	3,296	63,300	5,275
8	25,300	2,108	42,100	3,508	67,400	5,617

FY 2008 Median Family Income \$63,800.00

* Definitions (Source 24 CFR 570.3):

1. "Low and moderate income household" or "lower income household" means a household having an income equal to or less than the Section 8 lower income limits established by HUD. The method for determining income under the Section 8 Housing Assistance Payments program need not be used for this purpose.
1. "Low and moderate income person" or "lower income person" means a member of a family having an income equal to or less than the Section 8 lower income limits established by HUD. Unrelated individuals shall be considered as one person families for this purpose. The method for determining income under the Section 8 Housing Assistance Payments program need not be used for this purpose.

Appendix F Low – Moderate Income Area Map

